

**IN THE UNITED STATES DISTRICT COURT FOR THE  
WESTERN DISTRICT OF OKLAHOMA**

JERRY ALLEN CLARK,	)	
	)	
Petitioner,	)	
	)	
vs.	)	No. CIV-11-0707-HE
	)	
ERIC HOLDER, Attorney General,	)	
	)	
Respondent.	)	

**ORDER**

Petitioner Jerry Allen Clark, a federal prisoner appearing *pro se*, has filed the present petition seeking habeas relief. Consistent with 28 U.S.C. § 636(b)(1)(B), the matter was referred for initial proceedings to Magistrate Judge Bana Roberts. She has recommended the petition be summarily dismissed. Objections to Judge Roberts's Report and Recommendation were due by July 27, 2011. Petitioner has not filed an objection as such; however, he did file a notice of intent to appeal [Doc. #7], a supplemental pleading [Doc. #9], and a notice of appeal [Doc. #10] prior to the response deadline. Also at issue is petitioner's motion for an order directing the clerk to amend a clerical error [Doc. #16].

The court has considered petitioner's miscellaneous filings as objections to Judge Roberts's Report and Recommendation. The court concludes petitioner's claims should be dismissed for substantially the same reasons as explained in Judge Roberts's Report and Recommendation.


The court has also considered whether it is appropriate for the undersigned judge, or Judge Roberts, to act in this case. Petitioner's submissions indicate he has filed a Bivens

action in the U. S. District Court for the Eastern District of North Carolina against the undersigned judge, Judge Roberts, the Assistant U. S. Attorney who originally prosecuted him in this court, both of his prior defense counsel, and others. [Doc. #1-1]. Given the circumstances present here, including the nature of petitioner's allegations and his past mental health history,<sup>1</sup> the court concludes recusal is neither required nor warranted. *See United States v. Grismore*, 564 F.2d 929, 933 (10th Cir. 1977).

Magistrate Judge Roberts's Report and Recommendation [Doc. #6] is **ADOPTED** and Mr. Clark's petition for writ of habeas corpus [Doc. #1] is **DENIED**. Petitioner's motion for an order correcting a clerical error [Doc. #16] is also **DENIED** as **MOOT**. Additionally, the court **DENIES** petitioner a certificate of appealability because he has not "made a substantial showing of the denial of a constitutional right." *See* 28 U.S.C. § 2253(b)(2); Rule 11(a).

**IT IS SO ORDERED.**

Dated this 23rd day of November, 2011.

  
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JOE HEATON  
UNITED STATES DISTRICT JUDGE

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<sup>1</sup>*Among other things, petitioner apparently views this court's role in his previous competency hearings as involving the unauthorized practice of medicine.*